

PEMBROKE, DEC. 12TH, 1899.

DEAR DOCTOR,

The following requisitions will explain the object of my addressing you in this circular and the synopsis of the case will place you in possession of the main facts covering the nature of the injury and the service rendered by Dr. Conerty, the outcome of which has been an action for malpractice:—

KINGSTON, 24th Nov., 1899,

DR. W. W. DICKSON, Pembroke.

DEAR SIR,—

At a meeting of the Kingston Medical and Surgical Society recently held, the action for malpractice in which Dr. J. M. Conerty, of Smith's Falls, is defendant, was brought to the notice of the meeting and discussed, when the following resolution was unanimously passed:—

Moved by Dr. R. H. Abbott, seconded by Dr. W. G. Anglin,

That Dr. W. T. Connell, Secretary of this Society, be instructed to communicate with Dr. W. W. Dickson, Territorial Representative of this (No. 15) Division in the Ontario Medical Council, intimating that in the opinion of this Society the practical sympathy of the profession should be tendered Dr. Conerty in the form of a fund contributed by the members in the Division to assist him in carrying his defence to a successful issue.

That while we are in favor of the establishment at an early date of a scheme for a permanent Provincial Defence Fund, yet, to meet the immediate necessities of this case, which we believe to be one of peculiar hardship and injustice, Dr. Dickson be hereby requested to issue a circular, containing a synopsis of the facts, to every member in the division, asking from each a contribution of two to five dollars for the purpose named.—Carried.

Trusting that the appeal may meet with a favorable reception.

I am yours sincerely,

W. T. CONNELL.

Secretary K. M. & S. S.

SMITH'S FALLS, 27th Nov., 1899.

To Dr. W. W. DICKSON, Pembroke.

We, the undersigned Registered Medical Practitioners, who reside in the vicinity of Smith's Falls, being fully informed as to the facts and merits of the case in which Dr. J. Moore Conerty, of Smith's Falls, has been made the defendant in a suit for malpractice, believe that great injustice has been, and is further to be inflicted upon him in the prosecution of the action, not only injuring his reputation but subjecting him to serious financial loss.

Believing, also, that the successful defence of this case is in the interests of the profession as a whole, inasmuch as failure will encourage like actions on the part of evil disposed and irresponsible persons, we hereby request you, as Territorial Representative, of No. 15 Division, to communicate with all the members in this Division to solicit subscriptions to a defence fund to aid him in carrying the case through. We also suggest that you will act as receiver and treasurer of the fund, and that you will send a copy of this requisition to every member, from whom we bespeak a liberal and prompt response.

W. J. ANDERSON, Smith's Falls.

E. MCKENZIE, Smith's Falls

C. L. EASTON, Smith's Falls,

A. E. HANNA, Perth.

A. W. DWYRE, Perth,

D. A. MUIRHEAD, Carleton Place,

M. A. McFARLANE, Carleton Place.

SYNOPSIS.

On the 11th of September, 1897, Dr. J. M. Conerty was summoned to the home of Mr. A.—, whose boy a strumous lad, of about ten years, had fallen from a beachnut tree. On examination he found a fracture of the lower end of the radius (right arm) and a bruised condition of the thenar eminence corresponding to a point marking the juncture of the middle with the inner third of the outer head of the flexor pollicis muscle, also some scratches which had been bleeding on the dorsal surface of the hand.

After administering an anaesthetic the Doctor washed the hand and arm in a bichloride solution 1 to 2000, and proceeded to reduce the fracture. The dressing used to retain the fragments in proper position being two lateral splints, well padded, measuring about two and one half inches wide and extending from near the elbow to the meta-carpo phalangeal articulation.

A pad, consisting of a roll of bandage one inch in diameter, wrapped in absorbent cotton, was placed in the palm of the hand on which rested the distal end of the anterior splint and an antiseptic pledge was placed over the bruised area.

The splints were held in position (in the absence of adhesive plaster) by two "ties" of bandage placed one near the wrist and the other near the elbow. A bandage was then applied over the splints and the arm placed in a sling. Directions were given to keep the boy at rest and the hand elevated.

Dr. Conerty saw the boy on September 12th and 17th and found everything satisfactory. The boy did not complain. He was playing about two days after the accident. The Doctor did not see the boy again until October 4th. When Doctor called at his home on this date, he removed the splints and found the dressings and hand in a very dirty condition. So far as the bone was concerned he found union good and with no deformity. After bathing the hand in tepid water he discovered an indurated patch of skin over the seat of bruise which was showing signs of separation from the healthy tissue. Doctor considered it the remains of the bruised tissue which nature had not been able to take care of. It was superficial. Before leaving he dressed the hand antiseptically.

Three days after, on October, 7th the Doctor again called and on examining the hand found signs of separation more marked. Again dressed it as on previous day giving instructions to have the boy brought to his office the next day.

He did not come as directed and the Doctor concluded that his hand was all right. On November 14th Mrs. A—, who was about to be confined, called to consult the Doctor regarding her condition. On leaving his office she mentioned that the "sore" on the boy's hand had not healed yet. Doctor reminded her of his instructions, to bring the boy to his office to have his hand dressed, and told her to have the boy brought to his office at once.

On November 16th, Mrs. A—brought the boy and on removing a dirty rag which served as a bandage the Doctor found a deep sloughing sore the size of a twenty-five cent piece. The indurated patch of skin referred to before was still hanging to the surface of the sore by some fibrous shreds.

The wound had become infected with pus germs which had burrowed deeply. The thumb was held in an adducted and semi-flexed position in order to relieve any tension on the ulcerating surface. On enquiring why the boy had not been brought to the office as the Doctor had directed, Mrs. A—replied that she thought that the hand would heal all right. She said she had tried everything on it to heal it and spoke of some salve she had obtained from a neighbor woman, the healing properties of which were unsurpassed and concluded by saying that "she didn't know what kind of a young one he was, for if he got the slightest scratch it seemed never to heal."

On this occasion the Doctor got the sore cleaned up as well as possible, applying an antiseptic dressing and instructed the boy to come to his office every day until his hand was all right. He came irregularly and it was about the middle of December before the sore had completely healed.

As there was loss of integument and subjacent tissue there was contraction in the process of healing which was much favored by the position in which the boy held his thumb, hence he had a slight deformity consisting of an adduction of the first metocarpal bone, causing the thumb to be drawn toward the median line to such an extent that it interfered with the complete flexion of the fingers.

Owing to the youth of the patient and being deterred from doing a plastic operation owing to the unsanitary and septic conditions existing in the boy's home, the Doctor determined to try massage, promising good results if he had the co-operation of the boy and his parents. Doctor encouraged the boy to come to his office every day for treatment and explained to his parents how to rub and manipulate the boy's thumb in order to restore its position.

The boy came five times during the month of January. After this the Doctor did not see anything of him until about the first of June when he appeared accompanied by his father, who for six months previous had been threatening to bring an action against him for malpractice and boastfully claiming that he would get \$5000.00 if he did so.

On this occasion the Doctor charged the father and son with neglect and pointed out to them where his directions had not been followed. Doctor informed the father that he had not seen the boy for more than three months. The only excuse elicited from Mr. A— for his negligence in not executing his orders was that he thought the treatment the Doctor was giving the boy was not doing any good. Father further stated that he had consulted other doctors who said that "the hand would have to be split up." Doctor discouraged any operative procedure at this time and told Mr. A— that he would not operate without giving massage fair trial; that massage properly and persistently applied would in his opinion restore the function of the thumb.

After again showing him how he wanted the hand treated, the Doctor told Mr. A—to so treat it for ten minutes every night and to advise the boy's mother to do likewise every forenoon. The boy was also to come to the Doctor's office every afternoon at five o'clock. He came only four or five times when the Doctor again lost all trace of him and has not had an opportunity to do anything for him since.

In answer to inquiries as to home treatment the boy told the Doctor that his mother had not time to treat his hand and he was always in bed when his father came in at night, consequently there was no home treatment.

During his latter treatment the Doctor procured a plaster cast of another boy's hand and after padding it carefully would place the patient's hand in the cast with the thumb in an extended position. The hand was kept in the cast by a bandage. This the doctor afterwards learned was taken off as soon as soon as the boy would go home.

The subsequent relations existing between the father and Dr. Conerty have been that of Plaintiff and Defendant in an action for malpractice claiming \$6,000 damages. After much threatening the case came down for trial in the spring of '98 but Plaintiff was then unprepared with medical testimony and got a postponement. Plaintiff's

counsel afterwards secured the services of an M.D. in Toronto and case went to trial at Perth Assizes in the fall of '98. After two days' fighting the defendant secured a non suit with costs. Plaintiff's counsel appealed to Divisional Court at Toronto. After nearly a year that Court ordered a new trial and returned all costs against Dr. Conerty. Mr. B. B. Osler, the Doctor's counsel, at once appealed against this judgment to the higher Court of Appeal, where case now stands for argument this month.

MEMO—Plt'ff contended sore on boys hand was produced by spliint. Deft proved sore was result of devitaliza tion of tissue by bruising at time of fall and subsequent infection; and further, location of sore made production by splint impossible.

Deformity is slight, due to contraction of cicatrix which would have been prevented had not Plaintiff neglected Doctor's instructions from Oct. 7 to Nov. 16.

There is reason to believe that the Plaintiff is worthless, because when he began suit he was under an order of commitment to jail for debt; therefore the Doctor's costs whether he wins or losses must be paid by himself.

Doctor Conerty could have settled for a mere trifle at first, but refused and has been fighting for a principle and in the interests of the profession as much as his own.

The Doctor has already expended about \$1500, and there will be a probable outlay of \$1000 more to prosecute the defence in the Court of Appeal. This, and other cases of a like character, have brought the question of the establishment of a Provincial Defence Fund prominently before the profession. That initiatory steps to that end will be taken in the near future, perhaps at the next meeting of the the Ontario Medical Association in 1900, can hardly be doubted, but it will require months to get the scheme working. In any case this proposition to come to the aid of Dr. Conerty, not only to help but to encourage him to press the defence to successful issue, in an effort in the right direction and is in the interest of every member of the profession, as failure will encourage others to plunder and there is no knowing to whom the next may come. But whoever may be so unfortunate as to have a like experience can, of course, reasonably expect the same sympathy and assistance as he may be willing to bestow in this instance. I will have great pleasure in acting as treasurer of the fund as suggested; but I would request all members resident in the City of Kingston and in the Counties of Frontenac and Addington (the southern half of the Division) to pay in their subscription to Dr. W. T. Connell, Secretary of the Kingston, M. & S. Society, who will remit to me. The members resident in the Counties of Lanark and Renfrew, (the northern half of the Division) can remit to me direct. Acknowledgements will be made on receipt of subscriptions in both cases. As an immediate response is desirable I would suggest that the subscriptions be paid in during the month of December and that the amounts be a minimum of two and a maximum of five dollars or intermediate sum, as the person contributing may wish.

I am, yours respectfully,

W. W. DICKSON.

Territorial Representative of Division No. 15.